IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4508 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KARMJYOT CO-OPERATIVE HOUSING SOCIETY LTD.

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 4508 of 2002

MR MC BHATT for Petitioner No. 1

MR HC PATEL ASSTT GOVERNMENT PLEADER for Respondent No. 1

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 05/12/2002

ORAL JUDGEMENT

Heard learned advocate Mr.Mahesh Prajapati on behalf of the petitioner and learned AGP Mr.H.C.Patel appearing on behalf of the respondents.

This Court, while dealing with petition being Special Civil Application No.2918 / 2001 in the subject matter involved in the present petition, has disposed of and passed the order dated 17th October, 2001 directing the petitioner to make representation and also directed the respondents to pass appropriate orders upon such representation of the petitioner in accordance with law within some reasonable time. In pursuance of the order passed by this Court in Special Civil Application No.2918 / 2001 dated 17th October, 2001, the petitioner has filed representation on 30th October, 2001 to the respondents. In response to the said representation, reply given by the respondents vide letter dated 21st December, 2001 informing the petitioner that since the Urban Land [Ceiling and Regulation] Act, 1976 came to be repealed with effect from 30th March, 1999 and the Government has decided to implement new policy under the amended Urban Land Ceiling Act, the Government through its Revenue Department issued two Government Resolutions dated 13th September, 2000 and 6th October, 2001 and in view of these two G.Rs. since the land situated in the city area is now kept reserved for poor and weaker class of the society and therefore, the prime located land which is valuable requires to be disposed by public auction and the sale proceeds amount will be utilized for the betterment of the poor and weaker class of the society to meet with such expenses for creating basic amenities like electricity, roads, water supply and sewerage. Therefore, on this ground, request made by the petitioner came to be rejected.

Learned advocate Mr.Prajapati has submitted that initially the State Government has allotted the land to the petitioners to the tune of 43,432 sq.mtrs at the rate of Rs.140/- per sq.mt. However, said allotment came to be reduced by 3398 sq.mtrs. and finally allotted land to the extent of 40034 sq.mts. It is further submitted that out the said allotted land, actual possession of the land admeasuring 15,856 sq.mts was given to the petitioners and thereafter in December, 1991 also the petitioner was given possession of the land 6695 sq.mts. Thereafter, the Government directed the petitioner to pay further amount of Rs.5 lacs towards allotment of remaining land 3405 sq.mts of Survey No.841 and against payment of Rs.4,76,700/- the petitioner was given possession of said 3405 sq.mt land. Thus, now the petitioner holds possessio of total land admeasuring 23,405 sq.mtrs and necessary amount of the land in question allotted to the petitioner has been paid by the petitioner to the State Government and possession thereof has been given to the

petitioner. However, the grievance of the petitioner is that the petitioner is entitled to remaining land which was originally allotted to the petitioner by the State Government. In view of this factual aspects of the matter, learned advocate Mr.Prajapati submits that considering the reply dated 21st December, 2001, it may be possible that the land in question cannot be allotted by the Government to the petitioner but the State Government may consider the case of the petitioner for allotting any other alternative land even in nearby area or even within the periphery of 10 km from the land so allotted. He, however, submitted that the petitioner will suggest to the State Government the other lands which can be made available to the petitioner in nearby area and the Government may consider their case for allotting alternative land against the remaining land requires to be allotted and / or given to the petitioner.

Learned AGP Mr.H.C.Patel appearing on behalf of the respondents considering the statement of the petitioner that they are ready and prepared to accept any other alternative vacant land within periphery of 10 km. area, submits that for such proposal, let the petitioner make necessary representation to the respondent authorities and the respondent authority will consider such representation and will pass appropriate orders in accordance with law as well as new policy of the State Government.

Having considered the submissions of the learned advocates on behalf of the parties, it is observed that it is open to the petitioner to file necessary representation to the concerned authorities - respondents herein pointing out and suggesting the vacant lands in the nearby vicinity within period of one month from today. As and when the respondent - Secretary of the concerned Department, will receive such representation of the petitioner, the respondents will consider such representation of the petitioner and after examining the grievance of the petitioner for allotment of the alternative vacant land within periphery of 10 kms., will pass appropriate orders in accordance with law after giving reasonable opportunity of hearing to the petitioner, within period of four months from the date of receiving such representation from the petitioner.

It is observed that this Court has passed this order without entering into merits of the matter and the authority shall pass as directed above in accordance with law. In view of above observations and directions, present petition stands disposed of accordingly. Notice

discharged. No order as to costs.

Direct Service is permitted.

Date : 5-12-2002 [H.K.Rathod, J.]

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